

**REPORT OF THE AUDIT OF THE
MONROE COUNTY
CLERK**

**For The Year Ended
December 31, 2009**



**CRIT LUALLEN
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EXECUTIVE SUMMARY

AUDIT EXAMINATION OF THE MONROE COUNTY CLERK

**For The Year Ended
December 31, 2009**

The Auditor of Public Accounts has completed the Monroe County Clerk's audit for the year ended December 31, 2009. Based upon the audit work performed, the financial statement presents fairly in all material respects, the revenues, expenditures, and excess fees in conformity with the regulatory basis of accounting.

Financial Condition:

Excess fees decreased by \$14,308 from the prior year, resulting in excess fees of \$54,651 as of December 31, 2009. Revenues decreased by \$141,380 from the prior year and expenditures decreased by \$127,072.

Report Comment:

- 2009-01 The County Clerk Should Comply With Court Order Upon Completion Of The Judicial Process
- 2009-02 The County Clerk Should Reimburse 2010 Fee Account For 2009 Tax Collections Paid From 2010 Fees

Deposits:

The County Clerk's deposits were insured and collateralized by bank securities.

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CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of revenues, expenditures, and excess fees - regulatory basis of the County Clerk of Monroe County, Kentucky, for the year ended December 31, 2009. This financial statement is the responsibility of the County Clerk. Our responsibility is to express an opinion on this financial statement based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America, the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the County Clerk's office prepares the financial statement on a regulatory basis of accounting that demonstrates compliance with the laws of Kentucky, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America.

In our opinion, the financial statement referred to above presents fairly, in all material respects, the revenues, expenditures, and excess fees of the County Clerk for the year ended December 31, 2009, in conformity with the regulatory basis of accounting described in Note 1.

In accordance with Government Auditing Standards, we have also issued our report dated September 10, 2010 on our consideration of the Monroe County Clerk's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with Government Auditing Standards and should be considered in assessing the results of our audit.



The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following report comments:

- 2009-01 The County Clerk Should Comply With Court Order Upon Completion Of The Judicial Process
- 2009-02 The County Clerk Should Reimburse 2010 Fee Account For 2009 Tax Collections Paid From 2010 Fees

This report is intended solely for the information and use of the County Clerk and Fiscal Court of Monroe County, Kentucky, and the Commonwealth of Kentucky and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a long horizontal flourish extending to the right.

Crit Luallen
Auditor of Public Accounts

September 10, 2010

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS

For The Year Ended December 31, 2009

Revenues

Revenue Supplement	\$	57,376
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State Fees For Services		5,008
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Fiscal Court		3,209
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Licenses and Taxes:

Motor Vehicle-

Licenses and Transfers	\$	393,661
Usage Tax		441,988
Tangible Personal Property Tax		672,982
Child Victim Fund		25
Notary Fees		5,518
Lien Release Fees		5,538

Other-

Fish and Game Licenses		5,017
Marriage Licenses		2,875
Occupational Licenses		59
Going Out Of Business		125
Deed Transfer Tax		15,344
Delinquent Tax		77,877
Affordable Housing Trust		12,138
		1,633,147

Fees Collected for Services:

Recordings-

Deeds, Easements, and Contracts		7,096
Real Estate Mortgages		13,489
Chattel Mortgages and Financing Statements		24,393
Powers of Attorney		1,395
Bail Bonds		748
Fixture Filings		354
Leases		265
Liens & Lis Pendens		2,450
Releases		4,035
Wills & Estate Settlement		480
All Other Recordings		2,147

The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
 TERESA SHEFFIELD, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Revenues (Continued)

Fees Collected for Services: (Continued)

Charges for Other Services-

Candidate Filing Fees	\$	1,680	
Copywork		1,565	
Postage		122	
Refunds/Overpayments		<u>3,902</u>	\$ 64,121

Other:

Miscellaneous		784	
NSF Fees		<u>50</u>	834

Interest Earned			<u>675</u>
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Total Revenues			1,764,370
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Expenditures

Payments to State:

Motor Vehicle-

Licenses and Transfers	\$	280,667	
Usage Tax		428,605	
Tangible Personal Property Tax		230,197	
Licenses, Taxes, and Fees-			
Fish and Game Licenses		4,879	
Delinquent Tax		11,055	
Legal Process Tax		9,449	
Affordable Housing Trust		<u>12,138</u>	976,990

Payments to Fiscal Court:

Tangible Personal Property Tax		46,501	
Delinquent Tax		7,151	
Deed Transfer Tax		14,577	
Occupational Licenses		<u>56</u>	68,285

Payments to Other Districts:

Tangible Personal Property Tax		369,340	
Delinquent Tax		<u>40,614</u>	409,954

Payments to Sheriff			785
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The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
 TERESA SHEFFIELD, COUNTY CLERK
 STATEMENT OF REVENUES, EXPENDITURES, AND EXCESS FEES - REGULATORY BASIS
 For The Year Ended December 31, 2009
 (Continued)

Expenditures (Continued)

Payments to County Attorney	\$	11,063	
Operating Expenditures and Capital Outlay:			
Personnel Services-			
Deputies' Salaries	\$	94,498	
Contracted Services-			
Tax Bill Preparation		2,275	
Materials and Supplies-			
Office Supplies		8,204	
Other Charges-			
Conventions and Travel		540	
Dues		600	
Postage		2,592	
Refunds		4,015	
Miscellaneous		7,461	
Capital Outlay-			
Office Equipment		921	121,106
Debt Service:			
Lease Purchases		40,320	
Total Expenditures			\$ 1,628,503
Net Revenues			135,867
Less: Statutory Maximum			74,088
Excess Fees			61,779
Less: Expense Allowance		3,600	
Training Incentive Benefit		3,528	7,128
Excess Fees Due Fiscal Court for 2009 (See Note 4)			\$ 54,651

The accompanying notes are an integral part of this financial statement.

MONROE COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 2009

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of revenues over expenditures to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

KRS 64.820 directs the fiscal court to collect any amount, including excess fees, due from the County Clerk as determined by the audit. KRS 64.152 requires the County Clerk to settle excess fees with the fiscal court by March 15 each year.

The financial statement has been prepared on a regulatory basis of accounting, which demonstrates compliance with the laws of Kentucky and is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. Under this regulatory basis of accounting, revenues and expenditures are generally recognized when cash is received or disbursed with the exception of accrual of the following items (not all-inclusive), at December 31 that may be included in the excess fees calculation:

- Interest receivable
- Collection on accounts due from others for 2009 services
- Reimbursements for 2009 activities
- Payments due other governmental entities for December tax and fee collections and payroll
- Payments due vendors for goods or services provided in 2009

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the County Clerk's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

MONROE COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a cost-sharing, multiple-employer, defined benefit pension plan, which covers all eligible full-time employees and provides for retirement, disability, and death benefits to plan members. Benefit contributions and provisions are established by statute

Nonhazardous covered employees are required to contribute 5 percent of their salary to the plan. Nonhazardous covered employees who begin participation on or after September 1, 2008 are required to contribute 6 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 13.50 percent for the first six months and 16.16 percent for the last six months of the year.

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65. Nonhazardous employees who begin participation on or after September 1, 2008 must meet the rule of 87 (members age plus years of service must equal 87, and the member must be a minimum of 57 years of age) or the member is age 65, with a minimum of 60 months of service.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is presented in the Kentucky Retirement Systems' annual financial report. This report may be obtained by writing the Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601-6124, or by telephone at (502) 564-4646.

Note 3. Deposits

The Monroe County Clerk maintained deposits of public funds with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC) as required by KRS 66.480(1)(d). According to KRS 41.240(4), the depository institution should pledge or provide sufficient collateral which, together with FDIC insurance, equals or exceeds the amount of public funds on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge or provision of collateral should be evidenced by an agreement between the County Clerk and the depository institution, signed by both parties, that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution.

Custodial Credit Risk - Deposits

Custodial credit risk is the risk that in the event of a depository institution failure, the County Clerk's deposits may not be returned. The Monroe County Clerk does not have a deposit policy for custodial credit risk but rather follows the requirements of KRS 41.240(4). As of December 31, 2009, all deposits were covered by FDIC insurance or a properly executed collateral security agreement.

MONROE COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 2009
(Continued)

Note 4. Lease

The Office of the Monroe County Clerk entered into a lease agreement on January 9, 2005 with Software Management, Inc. for computer software and hardware. The agreement requires a monthly payment of \$3,360 for a five-year term. As of December 31, 2009 the balance of the lease agreement was \$0.

Note 5. Civil Action

On March 6, 2008, the Office of the Monroe County Clerk received a \$60,610 revenue supplement from the Commonwealth of Kentucky Transportation Cabinet, Department of Vehicle Regulation, per KRS 186.040. On March 12, 2008, the County Clerk filed a civil action in Monroe Circuit Court against the Monroe County Judge/Executive and the Monroe County Fiscal Court regarding the use of the funds. On February 5, 2009, the Monroe Circuit Court entered judgment in the civil action in favor of the Fiscal Court, and the Monroe County Clerk appealed to the Kentucky Court of Appeals. On June 18, 2010, the Court of Appeals rendered a decision affirming the Monroe Circuit Court in favor of the Fiscal Court. On July 6, 2010, the Monroe County Clerk filed a Petition For Rehearing with the Court of Appeals, and on August 18, 2010, the Petition For Rehearing was denied. As of the audit date, the Monroe County Clerk is in the process of filing a Motion For Discretionary Review with the Kentucky Supreme Court, asking the Court to review the decision of the Court of Appeals.

Due to the pending legal action, all revenue supplement funds received by the Monroe County Clerk were deposited into an escrow account. Therefore, on March 9, 2009, the 2008 revenue supplement totaling \$60,610, along with interest of \$948, and the 2009 revenue supplement totaling \$57,376 were deposited into an escrow account while the case is pending. During calendar year 2009, the escrow account earned \$791 in interest. As of December 31, 2009, the escrow account had a balance of \$119,725.

REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND
ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF THE FINANCIAL
STATEMENT PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



CRIT LUALLEN
AUDITOR OF PUBLIC ACCOUNTS

The Honorable Wilbur Graves, Monroe County Judge/Executive
The Honorable Teresa Sheffield, Monroe County Clerk
Members of the Monroe County Fiscal Court

Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards

We have audited the statement of revenues, expenditures, and excess fees - regulatory basis of the Monroe County Clerk for the year ended December 31, 2009, and have issued our report thereon dated September 10, 2010. The County Clerk's financial statement is prepared in accordance with a basis of accounting other than generally accepted accounting principles. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the Monroe County Clerk's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statement, but not for the purpose of expressing an opinion on the effectiveness of the County Clerk's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the County Clerk's internal control over financial reporting.

Our consideration of internal control over financial reporting was for the limited purpose described in the preceding paragraph and was not designed to identify all deficiencies in internal control over financial reporting that might be significant deficiencies or material weaknesses and therefore, there can be no assurance that all deficiencies, significant deficiencies, or material weaknesses have been identified. However as described in the accompanying comments and recommendations, we identified a certain deficiency in internal control over financial reporting that we consider to be a material weakness.

A *deficiency in internal control* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct misstatements on a timely basis. A *material weakness* is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity's financial statements will not be prevented, or detected and corrected on a timely basis. We consider the deficiency described in the accompanying comments and recommendations as item 2009-02 to be a material weakness.



Report On Internal Control Over Financial Reporting And
On Compliance And Other Matters Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

Compliance And Other Matters

As part of obtaining reasonable assurance about whether the Monroe County Clerk's financial statement for the year ended December 31, 2009, is free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed an instance of noncompliance or other matters that is required to be reported under Government Auditing Standards and which is described in the accompanying comments and recommendations as item 2009-01.

The Monroe County Clerk's response to the findings identified in our audit is included in the accompanying comments and recommendations. We did not audit the County Clerk's response and, accordingly, we express no opinion on it.

This report is intended solely for the information and use of management, the Monroe County Fiscal Court, others within the entity, and the Department for Local Government and is not intended to be and should not be used by anyone other than these specified parties.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Crit Luallen", with a stylized, flowing script.

Crit Luallen
Auditor of Public Accounts

September 10, 2010

COMMENTS AND RECOMMENDATIONS

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS

For The Year Ended December 31, 2009

STATE LAWS AND REGULATIONS:

2009-01 The County Clerk Should Comply With Court Order Upon Completion Of The
 Judicial Process

On March 6, 2008, the office of the Monroe County Clerk received funds totaling \$60,610 from the Kentucky Transportation Cabinet, Department of Vehicle Regulation, per KRS 186.040. On March 12, 2008, the County Clerk filed a civil action in Monroe Circuit Court against the Monroe County Judge/Executive and the Monroe County Fiscal Court regarding the use of the funds; the Fiscal Court would not approve in her 2008 budget to expend these funds. Because the County Clerk's budget was not approved by Fiscal Court, the County Clerk did not expend the amount in question. Instead, the funds were deposited into an escrow account pending the outcome of the litigation. Also, on March 9, 2009, the County Clerk received \$57,376 from the Kentucky Transportation Cabinet that Fiscal Court would not approve in her 2009 budget to expend. This amount is also included in the civil action.

On February 5, 2009, the Monroe County Circuit Court entered judgment in the civil action in favor of the Fiscal Court, and the County Clerk appealed to the Kentucky Court of Appeals.

On June 18, 2010, the Court of Appeals rendered a decision affirming the Monroe Circuit Court in favor of the Fiscal Court. On July 6, 2010, the Monroe County Clerk filed a Petition For Rehearing with the Court of Appeals and on August 18, 2010, the Petition For Rehearing was denied.

As of the audit date, the Monroe County Clerk is in the process of filing a Motion For Discretionary Review with the Kentucky Supreme Court, asking the Court to review the decision of the Court of Appeals.

Per the County Clerk's 2009 audited financial statement, additional excess fees of \$54,651 are due, which is based, in part on funds of \$57,376 received from the Transportation Cabinet per KRS 186.040. However, the County Clerk has not paid 2009 excess fees due to the pending legal action. Also, the County Clerk has not paid the 2008 excess fees that were due pending the legal action.

We recommend the County Clerk continue to hold the 2008 and 2009 funds in escrow until the judicial process is complete. Once the judicial process is concluded, we recommend the County Clerk comply with the ruling. As of the audit date, auditors are treating funds in escrow, less the amount needed to reimburse 2010 fee account, as excess fees.

County Clerk's Response: The County Clerk's office will comply with the ruling.

MONROE COUNTY
TERESA SHEFFIELD, COUNTY CLERK
COMMENTS AND RECOMMENDATIONS
For The Year Ended December 31, 2009
(Continued)

INTERNAL CONTROL - MATERIAL WEAKNESS:

2009-02 The County Clerk Should Reimburse 2010 Fee Account For 2009 Tax Collections Paid
From 2010 Fees

On February 4, 2010, the Monroe County Clerk stopped payment on various checks written to the Monroe County Ambulance Board for 2009 tax collections. This was noted by the auditor during MVR testing. The various checks were dated from August 9, 2009 through January 5, 2010 for August through December 2009 Ad Valorem and Delinquent tax collections. Checks totaled \$11,784, with \$10,991 being Ad Valorem and \$793 Delinquent Tax. The disbursements were written, as required by the tenth of the following month, but were still outstanding as of February 2010. The Monroe County Clerk also stopped payment on a \$13 check. Because the County Clerk's checks are imprinted with the statement "Void after 90 days" and most of the checks had been outstanding over 90 days, the County Clerk stopped payment on the checks.

On February 18, 2010, the 2009 Fee Account was officially closed and a check for \$9,058 was written to the Monroe County Fiscal Court for excess fees. Subsequently, on March 9, 2010, the Monroe County Ambulance Board President presented the checks at the local financial institution for payment. Upon notification by the Bank President that the account was closed, the Monroe County Clerk was contacted. The Monroe County Clerk instructed the financial institution to honor the checks written on the 2009 Fee Account and pay from the 2010 Fee Account instead of returning as payment stopped. The financial institution honored the request and the checks were deducted from the 2010 Fee Account even though they were written on a different account. The \$13 check was not presented for payment and was not paid from the 2010 Fee Account.

Since 2010 fees were used to pay 2009 tax collections, we recommend the 2010 Fee Account be reimbursed \$11,784 either in part from Fiscal Court for the \$9,058 excess fees payment and the additional \$2,726 from escrow. However, if Fiscal Court refuses to refund the excess fee payment, the entire \$11,784 can be reimbursed from escrow. If the entire amount is reimbursed from escrow, Fiscal Court will receive remaining excess fees of \$45,592, if pending litigation is resolved in favor of the Fiscal Court.

We further recommend that disbursements only be honored from the account they were written on.

County Clerk's Response: No Response.

